

# **LOUISIANA PUBLIC DEFENDER BOARD**

**Wednesday, October 28, 2009  
2:00 PM**

**1010 Common Street, 2<sup>nd</sup> Floor  
New Orleans, LA 70112**

## **Agenda**

1. Call to Order and Welcoming Remarks by Chairman
2. Roll Call
3. Review and Approval of Minutes of September 30, 2009 Board Meeting\*
4. Public Comments
5. Report of the Chairman
6. Budget Update
  - A. Budget Status Report
  - B. Report of the Budget Committee
    - i. Outcome Based Budget Reviewed
    - ii. Traditional Budget
    - iii. Salary Survey Included in Annual Survey
    - iv. Overtime Resolution\*

### **7. Juvenile CINC Report\***

The Board may vote to go into executive session pursuant to La. R.S. 42:6 and 42:6.1, by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:6.1, including investigative proceedings regarding allegations of misconduct. No final or binding action will be taken during executive session.

8. Report of the State Public Defender (written)
  - A. Capital Guidelines\*
  - B. Calcasieu Case Counting
  - C. Annual Survey
  - D. COOP Meeting with Criminal Justice Agencies
  - E. ABA/BIP Technical Support Grant
  - F. Site Visits
  - G. Accolades

**9. Defender Story**

**10. Date and Location of Next Board Meeting December 3, 2009, Southern University**

**11. Adjournment\***

## LOUISIANA PUBLIC DEFENDER BOARD

Minutes of Meeting

October 28, 2009

2<sup>nd</sup> Floor Conference Room, 1010 Common Street, New Orleans, LA

**1. Call to Order and Welcoming Comments.** A meeting of the Louisiana Public Defender Board, pursuant to call of the Chairman and lawful notice, was duly convened and called to order by its Chairman at 2:10 p.m. on Wednesday, October 28, 2009, in the 2<sup>nd</sup> Floor Conference Room at 1010 Common Street in New Orleans, LA.

### 2. Roll Call

The following Board Members were present:

Frank Neuner, Chairman  
James E. Boren  
Judge William Burns  
Samuel S. Dalton  
Leo C. Hamilton  
Rev. Dan Krutz

Luceia LeDoux  
Pam Metzger  
D. Majeeda Snead  
Remy Voisin Starns  
Gina B. Womack

The following Board Members were absent:

Cleveland Coon  
Christine Lipsey

Lucy McGough  
Judge William Norris

The following *ex officio* Board Members were absent:

Rebecca Hudsmith  
Judge Robert Brinkman

The following members of the Board's staff were present:

Jean M. Faria, State Public Defender  
Kristy Z. Boxberger, Juvenile Justice Compliance Officer  
Marianne Buchanan, Budget Officer  
John Di Giulio, Trial-Level Compliance Officer  
Heather H. Hall, Special Projects Advisor  
Roger Harris, General Counsel  
Chase May, Technical Support Analyst  
Erik Stilling, Technology and Management Officer  
Clay Walker, Deputy Public Defender – Director of Juvenile Defender Services

**3. Review and Approval of Minutes of September 30, 2009 Board Meeting.** The Board reviewed the minutes of its meeting of September 30, 2009. Mr. Starns made the motion to accept the minutes without any amendments. The motion was seconded by Mr. Hamilton, and unanimously carried without opposition.

**4. Public Comments.** Rev. Krutz made a motion to amend the agenda to allow the Louisiana District Attorneys' Association (LDAA) to comment on the 'Capital Defense Guidelines for Louisiana'. The motion was seconded by Ms. Snead, and unanimously carried without opposition. Three representations from LDAA presented their comments/concerns on the most recent draft of the Louisiana Capital Guidelines. These included: 1) appointment of counsel at arrest; 2) case supervision by non-capital certified supervising attorneys; 3) continuity of representation; 3) supervision of excessive expenditures/expenditure limits in capital cases; 4) appointment of counsel in cases when a defendant/third party has procured private counsel but resources are depleted before the disposition of the case; 5) supervision on the use/expenses of mitigation experts; 6) the risk of excessive post-conviction petitions once the guidelines are passed; 7) expenses related to post-conviction/federal habeas (significantly more complicated and more expensive than capital representation at the trial level); and 8) addressing the "next step" remedy if a prosecution is halted by a trial judge under *State v. Citizen*. The guests concluded their comments by thanking LPDB for the opportunity to present and collaborate on these issues. Mr. Champagne expressed his concerns about the 'Capital Defense Guidelines for Louisiana'. These included: 1) consistency in the obligation of District Defenders to monitor/track capital cases in their jurisdiction (resolved by a reporter note clarifying language) and 2) financial liability of districts for expenses that should be are/could be paid by contract programs funded by LPDB. There followed a discussion about flat-fee rates for representation and the fundamental purpose of the 'Capital Defense Guidelines in Louisiana'.

Rev. Krutz moved to consider the Guidelines out of order. The motion was seconded by Mr. Boren, and carried without opposition. Rev. Krutz made the motion to accept the 'Capital Defense Guidelines for Louisiana'. The motion was seconded by Mr. Hamilton, and carried without opposition.

**5. Motion to Amend the Agenda.** Mr. Hamilton made a motion to amend the agenda to consider two items that were not on the agenda. The motion was seconded by Professor Snead, and carried without opposition.

**a. District Defender Selection** As a consequence of the death of the Mr. James Phillips, District Defender in the 26<sup>th</sup> JDC, Mr. Di Giulio reported that the selection committee in the 26<sup>th</sup> JDC has been formed and will have a recommendation for the Board at its January meeting. The statute authorizes LPDB to appoint an Interim District Defender during this period. Mr. Di Giulio recommended that Pam Smart be appointed to this position, as she has been handling many of the District Defender duties currently and during Mr. Phillips's sickness. Mr. Hamilton made the motion to appoint Pam Smart the Interim District Defender in the 26<sup>th</sup> JDC. The motion was seconded by Judge Burns, and carried without opposition.

**b. Mayor's Courts** Ms. Metzger gave a brief summary of Mayor's Courts in Louisiana. As many defendants in Mayor's Court face the possibility of incarceration, they are entitled to

an attorney. Act 307, however, does not provide that public defenders represent defendants in Mayor's Court. Ms. Metzger reported that this oversight is being considered by the Louisiana State Bar Association and that resolution will likely come in one of two forms: a law suit on behalf of an unrepresented person incarcerated in a Mayor's Court proceeding or the reclassification of certain laws to remove the authority to incarcerate citizens from Mayor's Courts.

**6. Report of the Chairman.** Chairman Neuner deferred his comments.

## **7. Budget Update**

**a. Budget Status Report** Ms. Buchanan presented the expenditures through the end of the year and reported \$356, 217 remaining for redistribution.

### **b. Report of the Budget Committee**

**i. Outcomes Based Budget Reviewed** The outcomes-based budget draft was submitted on October 5, 2009 in the amount of \$40,500,000.00.

**ii. Traditional Budget** Ms. Buchanan reported that our traditional budget will be submitted on November 5, 2009 and available for public review upon request after that date.

**iii. Salary Survey** Unlike last year, when the salary survey was circulated independently to the field, this year it will be included in our annual survey.

**iv. Overtime Resolution** Mr. Hamilton moved that the resolution to award compensatory time to Jean M. Faria, who has previously not been awarded compensatory time, be approved. The motion was seconded by Professor Snead, and carried without opposition.

**8. Juvenile CINC Report.** Mr. Hamilton moved that LPDB go into executive session. The motion was seconded by Mr. Boren, and carried without opposition.

Professor Metzger moved that LPDB resume the regular session. The motion was seconded by Mr. Hamilton, and carried without opposition.

Mr. Hamilton made a motion to adopt a resolution that staff investigate, recommend appropriate sanctions and notify appropriate agencies about this issue. The motion was seconded by Mr. Dalton, and carried without opposition.

**9. Report of the State Public Defender** Mr. Hamilton moved to adopt the Report of the State Public Defender. The motion was seconded by Ms. LeDoux, and carried without opposition.

Mr. Di Giulio reported that State Public Defender Faria is receiving the Albert Tate Award, the highest recognition awarded by the Louisiana Association of Criminal Defense Lawyers. LPDB

Member Sam Dalton is receiving the Lifetime Achievement Award from LACDL. Both will be honored at the annual Tate Dinner on December 4, 2009, in New Orleans.

**10. Next Meeting.** Thursday, December 3, 2009, at 2:00 p.m. at Southern University School of Law in Baton Rouge.

**11. Adjournment.** Mr. Hamilton made the motion to adjourn the meeting at 4:30. The motion was seconded by Ms. LeDoux, and carried without opposition.

Guests Attending:

Richard Bourke  
Vic Bradley, Jr.  
Tony Champagne  
Gary Clements  
Thomas Gernhauser  
Hugo Holland  
Dale Lee

James Looney  
Reggie McIntyre  
Michael Mitchell  
John Simmons  
Cliff Strider  
Richard Thompson